

7-187AC19
RECORDATION NO. 8872
JUL 6 1977
FEE \$ 12.00
INTERSTATE COMMERCE COMMISSION
June 20, 1977
RECEIVED
JUL 6 12 30 PM '77
I.C.C.
FEE OPERATION BR.

Secretary, The Interstate
Commerce Commission
Washington, D.C. 20423

RECORDATION NO. 8872-19
JUL 6 1977-12 45 PM
INTERSTATE COMMERCE COMMISSION

Sir:

Pursuant to §20c of the Interstate Commerce Act, and §1116 of the Regulations of the Interstate Commerce Commission, please find enclosed documentation necessary to the perfection of security interests in the therein described collateral. Also, please find enclosed a check in the amount of one hundred and twenty dollars (\$120.00) to cover the required recordation fees pursuant to §1116.3(d) of the Regulations, to wit: ten dollars (\$10.00) each for the two assignments; and fifty dollars (each) for the conditional sales agreement and the lease agreement.

Enclosed are 3 copies (original and 2 counterparts) of each document, acknowledged, executed, and in writing as specified by §1116 of the Regulations.

Following is a listing of the parties to each document:

- (a) Conditional Sale: Portec, Inc. (Paragon Division), a Delaware corporation having its principal place of business at 300 Windsor Drive, Oak Brook, Illinois, is the vendor; EMRR, Incorporated, a Maryland corporation having its principal place of business at 1970 Chain Bridge Road, McLean, Virginia, is the purchaser.
- (b) Lease: William M. Gibbons, Trustee of the Chicago, Rock Island and Pacific Railroad Company, with offices at 745 South LaSalle Street, Chicago, Illinois, is the lessee; EMRR, Incorporated, a Maryland corporation having its principal place of business at 1970 Chain Bridge Road, McLean, Virginia, is the lessor.
- (c) Assignment of Conditional Sales Contract: Portec, Inc. (Paragon Division), a Delaware corporation, having its principal place of business at 300 Windsor Drive, Oak Brook, Illinois, is the assignor; Merchants National Bank of Indianapolis, Indiana and American Mutual Life Insurance Company of Des Moines, Iowa are the assignees; and, EMRR, Incorporated, a Maryland corporation having its principal place of business at 1970 Chain Bridge Road, McLean, Virginia is the principal debtor.

RECORDATION NO. 8872-B
Filed & Recorded

JUL 6 1977-12 45 PM

INTERSTATE COMMERCE COMMISSION

RECORDATION NO. 8872-C
Filed & Recorded

JUL 6 1977-12 45 PM

INTERSTATE COMMERCE COMMISSION

M. W. Martin

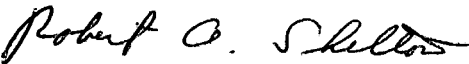
(d) Collateral Assignment of Lease: EMRR, Incorporated, a Maryland corporation having its principal place of business at 1970 Chain Bridge Road, McLean, Virginia is the assignor; Merchants National Bank of Indianapolis, Indiana and American Mutual Life Insurance Company of Des Moines, Iowa are the assignees; and William M. Gibbons, as Trustee for The Chicago, Rock Island and Pacific Railroad Company, with offices at 745 South LaSalle Street, Chicago, Illinois, is the principal debtor.

The equipment to be covered by the four (4) documents (Conditional Sales Agreement, Lease Agreement, Assignment of Conditional Sales Contract, and Collateral Assignment of Lease) consists of: forty (40) new Portec Inc. enclosed tri-level auto racks bearing the serial numbers designated on Exhibit A (attached). These racks are to be attached to those cars designated in Exhibit A.

The original copies of the four (4) documents are to be returned in the enclosed envelope to:

Mr. Charles P. Carlson, Esq.
Borge and Pitt, Attorneys
Suite 1440
120 South LaSalle Street
Chicago, Illinois 60603

Sincerely,


Robert A. Shelton,
Assistant Secretary
EMRR, Incorporated

LEASE AGREEMENT

AGREEMENT OF LEASE made as of May 16, 1977 by and between EMRR, Incorporated (hereinafter called Lessor), a corporation organized and existing under the laws of the State of Maryland with offices at 1970 Chain Bridge Road, Suite 610, McLean, Virginia, and William M. Gibbons, Trustee of the Chicago, Rock Island and Pacific Railroad Company (hereinafter called Lessee), with offices at 745 South LaSalle St., Chicago, Illinois.

RECORDATION NO. 882-B Filed & Recorded

JUL 6 1977-12 45 AM

W I T N E S S E T H : ~~INTERSTATE~~ COMMERCE COMMISSION

WHEREAS, the Lessor has entered into a Conditional Sale Contract dated on or about this date (hereinafter called the Conditional Sale Contract) with PORTEC INC., a Delaware Corporation (hereinafter called the "Manufacturer") providing for the sale to Lessor of certain enclosed tri-level superstructure automobile-carrying racks used for the transportation of automobiles on railroad flat cars; and

WHEREAS, said racks are required in order to accomodate a specific request of General Motors Corporation relating to protection of that corporations automobiles transported by Lessee; and

WHEREAS, by Order No. 89 of the United States District Court for the Northern District of Illinois Eastern Division in Proceedings for Reorganization of a Railroad No. 75B 2697 payments by Lessee hereunder shall constitute an expense of administration and William M. Gibbons, as Trustee, is authorized to enter into this Lease;

NOW, THEREFORE, in consideration of the premises and of the rentals to be paid and of the mutual promises and covenants hereinafter mentioned to be kept and performed by the parties, the parties hereto agree as follows:

1. Lease. -- The Lessor hereby leases to Lessee, and Lessee hereby hires from Lessor, the railroad car automobile racks referred to above and more fully described in an attached schedule marked Exhibit A, made a part hereof (hereinafter collectively called the "auto racks" or, individually, an "auto rack"). Lessee shall promptly provide 40 flat cars ready for installation of auto racks at the premises of Portec Inc., Novi, Michigan, and any obligation of Lessor hereunder shall be conditioned upon availability of such cars. ^{DELIVERED UNDER THE CONDITIONAL SALES CONTRACT OF} In the event less than 40 auto racks shall be accepted hereunder this Lease shall remain binding and its full force as to all auto racks that shall have been accepted. Lessee shall accept the auto racks when delivered and installed on flat cars in conformance to the specifications, requirements and standards applicable thereto at the premises of Portec, Inc., Novi, Michigan. bm

2. Term. - - The term of this Lease (the "Term") shall begin on the date of acceptance by Lessee of the auto racks (or, in the event, acceptance is on more than one date, on the dates of the respective acceptances) and shall terminate at the expiration of eight years after such date (or dates) of acceptance.

3. Rent of Racks. -- Lessor is the conditional vendee from Manufacturer of the above-described auto racks for use on railroad flat cars. These are the items to be leased by Lessor to Lessee under this Lease.

4. Appointment of Lessee as Agent; Limitation of Warranties. -- The Lessor hereby irrevocably appoints and constitutes Lessee its agent and attorney in fact for and in its name and behalf, but for the account of the Lessee, to make and to enforce, from time

to time, at the Lessee's sole cost and expense, whatever claim or claims the Lessor may have against Manufacturer under the terms of the Conditional Sale Contract, and Lessor shall have no obligation to assert any such claims which Lessor may have against Manufacturer under the terms of the Conditional Sale Contract. Lessor, for its own account, makes no warranty or representation, either expressly or by implication, as to the fitness, design or condition of, or as to the quality of the material or workmanship in the auto racks, or as to any other matter relating to the auto racks, it being agreed that all risks with respect to the auto racks are to be borne by the Lessee; provided, however, that Lessor does warrant that it has the lawful right to lease the racks, and Lessor's interest in and to the racks is free and clear of all claims, liens, security interests and encumbrances of any nature except only the rights of Manufacturer, or the Lenders (as defined in Paragraph 26 hereof) as assignees of Manufacturer under the Conditional Sale Contract and of Lessor under this Lease and of Lessee under this Lease. The Lenders shall have no responsibility or liability of any kind at any time for failure of any warranty made by Lessor.

5. Rental Payments. -- Lessee shall pay to Lessor at its address hereinabove mentioned or to any other designated payee a total rental of \$1,560,652.80, payable in thirty-two (32) equal quarterly installments, commencing three months after commencement of the Lease term, each successive quarterly installment payment to be \$48,770.40 subject to reduction pursuant to paragraphs 6 and 12 hereof; if the date on which any payment is to be made shall fall on a Saturday, Sunday or legal holiday, such payment shall be due on the next succeeding day that is not a Saturday, Sunday, or legal holiday.

Lessee shall accept auto racks hereunder in more than one delivery in which event the rental and other payments hereunder shall be adjusted to reflect the number of racks accepted pro rata in the proportion which the number accepted auto racks bears to 40, and the payment schedule for auto racks accepted for any such second acceptance shall commence three months after commencement of the Lease term with respect to such auto racks.

The sums specified as payable by Lessee in Sections 7, 8, 12, 17, 19 and 29 shall be deemed additional rent payable hereunder.

6. Abatement of Rents. -- Lessee shall not be entitled to any abatement of rental or additional rental payments or reductions thereof, including, but not limited to, abatements or reductions due to any present or future claims of Lessee against Lessor or any assignee of the Lessor or against Manufacturer, or any assignee of the Manufacturer, nor shall this Lease terminate, or the respective obligations of Lessor or Lessee be otherwise affected, by reason of any defect in, damage to or destruction of the auto racks from whatever cause, the taking or requisition thereof by condemnation or otherwise, the lawful prohibition of Lessee's use by any private person or corporation, or for any other cause, whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rental payments and additional rental payments shall continue to be payable in all events, unless the obligations to pay such amounts shall be terminated, pursuant to the express provisions of Paragraphs 12 and 29 of this Lease. Nothing contained in this Paragraph 6 shall constitute a waiver by Lessee of any claim for damages against

Lessor for breach of Lessor's warranty contained in Paragraph 4 hereof, but in no instance shall Lessee have any right of set-off against the payments due hereunder.

7. Payment of Taxes, Assessments, etc. by Lessee. --

The Lessee, during the continuance of this Lease, in addition to the rental herein provided, promptly shall pay as additional rent hereunder all taxes, assessments and other governmental charges levied or assessed upon the auto racks or the interest of the Lessee therein or in respect of the use or operation thereof, and will promptly pay or reimburse the Lessor for all taxes, assessments, penalties, interest and other governmental charges levied or assessed against Lessor imposed by any state, federal or local government on account of its ownership or lease of said auto racks or in respect of the use or operation thereof, exclusive, however, of any income taxes on the rentals herein provided; but the Lessee shall not be required to pay the same so long as it shall, in good faith and by appropriate legal or administrative proceedings, contest the validity or amount thereof, unless thereby, in the reasonable judgment of Lessor, the rights or interest of Lessor will be materially endangered and provided that Lessee shall indemnify and save harmless the Lessor from all costs and charges (including reasonable counsel fees) resulting from any such proceeding or from the failure of the Lessee to make such payments. Lessee shall give notice to Lessor of its intention to contest the validity or amount of any such tax, assessment or governmental charge at least ten (10) days prior to the date on which Lessee shall institute the appropriate legal or administrative proceedings. Lessor shall give Lessee notice of any taxes, assessments, penalties, interest or other governmental charges levied or assessed

by any state, federal, or local government on account of the ownership, use or operation of said auto racks. In the event any tax reports are required to be made on the basis of the auto racks, Lessee shall either make such reports, in such manner as to show ownership of said racks by Lessor or shall notify Lessor of such requirements and shall make such reports in such manner as shall be satisfactory to Lessor.

8. Indemnification by Lessee, etc. -- Lessee shall defend, indemnify and save harmless the Lessor and the Lenders against any loss, charge or claim made against Lessor or the Lenders and against any expense or liability (including reasonable attorney's fees) which Lessor or the Lenders may incur by reason of its ownership of the auto racks while they are subject to this Lease, in any manner, arising out of or as a result of the use or operation of such racks, and shall defend, indemnify and save harmless the Lessor and the Lenders against any claim or suit on account of any accident in connection with the operation of such racks resulting in death, damage or injury to any person, including employees of Lessee, and shall also defend, indemnify and hold Lessor and the Lenders harmless for any loss of or damages to property (including property of Lessee) arising out of and in any manner connected with the possession, use or operation of said auto racks while they are subject to this Lease. This indemnity shall survive termination of the Lease.

9. Replacements, etc. -- Lessee shall have the right, without cost or expense to Lessor, to make any replacement, change, substitute or addition of any equipment or appliance upon said auto racks, providing that no such replacement, change, substitution or additon shall decrease the value of such auto racks, but any parts

installed or replacements made by Lessee upon auto racks shall be considered accessions to such auto racks and title thereto shall be immediately vested in Lessor.

Lessee certifies that the auto racks listed in the right-hand column of Exhibit A are or will be installed respectively on the flat cars listed in the left-hand column of Exhibit A and shall not be removed prior to the end of Term, except with respect to any particular auto rack, upon compliance with Section 12 of the Lease, provided that the Lessee may install, at its expense, any auto racks on another flat car upon notification to Lessor and the Lenders, delivery to Lessor and Lenders of a list designating the serial number of the auto rack and the flat car to which it is attached, and a waiver by each holder of an interest in the flat car of any claim to any interest in the auto rack.

10. Repair and Maintenance. -- Lessee agrees that so long as this Lease remains in effect, Lessee will maintain and keep said auto racks in good order and repair, ordinary wear and tear excepted. Lessee agrees that during the period of any such repair, this Lease shall continue in full force and effect, notwithstanding that the racks are not operable during such period.

11. Compliance With Rules, etc. -- Lessee agrees to comply with all requirements of the Association of American Railroads and with all governmental laws, rules, regulations and other governmental requirements to the extent that the same are applicable to the auto racks with respect to the use and operation of said auto racks subjected to this Lease; in case any auto racks are required to be changed or replaced or in case any additions or other equipment or appliances are required to be installed in order to comply with

such laws, regulations, requirements and rules, the Lessee agrees to make such changes, additions and replacements at its cost and expense, and any parts so installed or replacements so made by Lessee shall be considered accessions to such auto racks and title thereto shall be immediately vested in Lessor.

12. Destruction, Etc. of Racks. -- In the event any of said auto racks are destroyed, stolen or, in the reasonable opinion of Lessee concurred in by Lessor, damaged beyond economical repair, then this Lease shall terminate in respect of such auto racks on the last day of the month in which Lessee shall have given notice to Lessor of the occurrence of such event; and on the first day thereafter that rental hereunder is required to be paid, Lessee shall (after such event shall have occurred during the Term) pay to the Lessor an amount in cash equal to the present value of the remaining rentals to be made under Paragraph 5 for such auto racks (such present value to be computed by discounting the remaining rentals at a rate of 8% per annum) together with an amount equal to 10% of the original cost thereof of \$28,614.00 for each auto rack; upon the receipt of the payments required under this Paragraph 12 to be made by Lessee, Lessor shall not thereafter have any interest in any such auto racks or material salvageable therefrom. On termination, as used in this Paragraph 12, in respect of such an auto rack, in accordance with this Paragraph 12, the quarterly rent shall be reduced by \$1,219.26 for each such auto rack. When Lessee pays for a destroyed auto rack under this Paragraph, Lessor shall execute an appropriate assignment document to Lessee vesting title to such auto rack in Lessee.

13. Requisition of Auto Racks, -- In the event that the use of said auto racks shall be requisitioned or taken during the Term by any governmental authority under the power of eminent domain or otherwise or on any basis not involving the taking of title to the auto racks, such requisition or taking shall not terminate this Lease and each and every obligation of Lessee with regard thereto shall remain in full force and effect. The Lessee, so long as it shall not be in default under this Lease, shall be entitled during the Term to all payments made by such governmental authority as compensation for such requisition or taking; provided that if any "compensation payments" are made to Lessee in advance of the portion of the period to which the compensation payments relate, at Lessor's option, the compensation payments shall be held by a financial institution designated by Lenders to receive rent payments made pursuant to this Lease. In such event, the institution shall pay to Lessee the excess of the compensation payments over the total of all payments due to Lessor hereunder for the aforesaid period.

14. Inspection. -- The Lessor, by its authorized representatives, shall have the right to inspect the auto racks and equipment at such times as shall be reasonably necessary to confirm the existence and proper maintenance thereof.

15. Sublease, Assignment and Transfer, etc. -- So long as Lessee shall not be in default under this Lease, Lessee shall be entitled to possession and use of the auto racks in accordance with the terms of this Lease, on cars operated over tracks owned, leased or operated by Lessee, either alone or jointly with another, or over which Lessee has trackage or other operating rights, whether these be its own tracks or tracks over which it has operating rights or

agreements but does not own, and also on tracks of other railroads in the usual interchange of traffic, so long as the auto racks are not physically removed beyond the continental limits of the United States of America, except for incidental and temporary use in Canada. Without prior written consent of Lessor, Lessee shall not sublet, assign, transfer or encumber its leasehold interest under this Lease in the auto racks, nor shall Lessee part with possession and control of or suffer or allow to pass out of its possession and control, the auto racks, except to the extent that normal operating practice in connection with the use of the auto racks may require the temporary relinquishment of possession or control; provided that, nothing contained herein shall prohibit or restrict the right of the Lessee to assign or transfer all of its rights hereunder to any corporation which shall have duly assumed all of such obligations, into or with which the Lessee shall have become merged or consolidated or which shall have acquired the property of the Lessee as an entirety or substantially as an entirety, but in any event only if such corporation will not, upon the effectiveness of such assumption, merger, consolidation or acquisition be in default under any provisions of this Lease.

16. Discharge of Liability. -- Lessee's obligations and liabilities under this Lease shall only be relieved or discharged, other than by the payments prescribed herein, by a formal written release of Lessor and each Lender to such an effect and not otherwise.

17. Liens. -- Lessee shall pay or cause to be paid or discharged, or make adequate provision for the satisfaction or discharge, of any claim against Lessee which, if unpaid, might become a lien or charge upon or against the auto racks; but this

provision shall not require the payment of any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings unless thereby, in the reasonable judgement of Lessor, the rights or interests of Lessee will be materially endangered and provided that Lessee shall indemnify and save harmless the Lessor from all costs and charges, including reasonable counsel fees, resulting from any such proceeding or from the failure of Lessee to pay any such claims. Lessee shall give notice to Lessor of its intention to contest the validity of any such claim at least ten (10) days before the date on which Lessee shall institute the appropriate legal proceedings.

18. Assignment of Lessor's Interests. -- Subject to the provisions of Section 26 hereof, all rights of Lessor hereunder may be assigned and transferred by it, subject, however, in any case to the rights of Lessee hereunder. Lessee shall not assert against any assignee or transferee of Lessor's rights hereunder (by way of defense to any claim of such assignee made under this Lease) any defense, counter-claim, offset or recoupment of any kind, variety or nature which Lessee may now or hereafter have against Lessor whether arising under the Lease or otherwise.

19. Default. -- If during the Term, (a) Lessee shall fail to make when due any payments provided for in Paragraph 5 relating to rental or additional rental or shall fail to make any of the payments required to be made under Paragraphs 7, 8, 12, 17 and 29 and such failure to pay continues for a period of seven (7) days after the due date for said payment, or (b) Lessee shall default in the observance or performance of any of the other covenants, conditions and agreements on the part of Lessee contained herein, and

such default continues for thirty (30) days after notice in writing of such default without cure, then, in any such case, Lessor, at its option, may (i) proceed by appropriate court action or actions, either at law or at equity, to enforce performance by Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof; or (ii) by notice in writing to Lessee, terminate this Lease, whereupon all rights of the Lessee to the use of auto racks, the subject of this Lease, shall forthwith terminate, but Lessee shall remain liable as hereinafter provided; and thereupon the Lessor may by its agents enter upon the premises of Lessee or other premises where said auto racks may be and take possession of said auto racks or require delivery as provided in Paragraph 21 of this Lease and thenceforth hold, possess and enjoy or sell, lease or otherwise deal with the same free from any right of Lessee, its successors or assigns to use said auto racks for any purpose whatever; but Lessor shall, nevertheless, have a right to recover from Lessee any and all amounts which under the terms of this Lease may be then due or which may become due and unpaid, including rentals or additional rentals accruing hereunder after the date of default and before termination and shall have the right to recover all costs of repossession and attorneys fees in connection with enforcement of this Lease; and Lessor may also recover forthwith from Lessee in cash, if the term has not expired, as damages for loss of the bargain and not as a penalty, a sum with respect to these auto racks which represents the excess of (x) the present value, at the time of such termination, of all rentals for said auto racks which would otherwise have accrued hereunder from the date of such termination to the end of the term over (y) the then present value of the rentals which the Lessor rea-

sonably estimates to be obtainable for the use of the racks during such period, such present value to be computed in each case on the basis of a simple 8% per annum discount.

Anything to the contrary hereinabove notwithstanding, any non-payment of rentals or additional rentals due hereunder shall result in the obligations on the part of Lessee to pay also an amount equal to twelve percent (12%) per annum (or the lawful rate, whichever is less) of the overdue rentals or additional rentals for the period of time during which they are overdue.

20. Remedies of Lessor. -- The remedies in this Lease provided in favor of Lessor shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in its favor existing at law or in equity. The Lessee hereby waives any mandatory requirements of law, now or hereafter in effect, which might limit or modify any of the remedies herein provided, to the extent that such waiver is permitted by law.

21. Termination of Lease. -- On the termination of this Lease, whether at the end of the Lease Term or upon any earlier termination, or upon Lessor's request upon occurrence of a default under this Lease, the Lessee shall collect the auto racks within thirty (30) days following the date of termination or of such request at not more than two (2) easily accessible locations on Lessee's railroad line, shall remove the auto racks from the flat cars and shall return the auto racks to the Lessor all at the Lessee's expense; provided however that upon such termination (other than upon an event of default), Lessee shall have the right of first refusal to purchase the auto racks at such price as shall then be agreed upon by Lessor and Lessee and upon inability of such parties to

to agree upon a purchase price the purchase shall be made at such price as shall reflect the then market value thereof as determined by an independent appraiser acceptable to both parties hereto, and upon failure to agree upon an appraiser such appraisers as shall be selected in equal number by each party hereto plus one appraiser selected by the appointed appraisers.

The Lessee will cause each auto rack to be kept numbered with its serial number as set forth in Exhibit A hereto, or, in the case of auto racks not there listed, such identifying number as shall be set forth in any amendment or supplement hereto extending this Lease to cover such auto racks, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each unit, in letters not less than one inch in height, the words "Ownership Subject to a Security Interest Filed under the Interstate Commerce Act, Section 20c" or other appropriate words designated by the Lessor, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the Lessor's interest in the auto racks and its rights under this Lease. The Lessee will not permit any such auto racks to be placed in operation or exercise any control or domination over the same until such markings shall have been made thereon and will replace or will cause to be replaced promptly any such markings which may be removed, defaced or destroyed. The Lessee will not permit the identifying number of any unit of the auto racks to be changed except in accordance with a statement of new number or numbers to be substituted therefor, which statement previously shall have been filed with the Lessor and filed, recorded and deposited by the Lessee in all public offices where this Lease shall have been filed, recorded and deposited.

Except as provided in the immediately preceding paragraph, the Lessee will not allow the name of any person, association or corporation to be placed on any auto rack as a designation that might be interpreted as a claim of ownership other than ownership by the Lessor and Lease by the Lessee.

22. Filing, Registration, Etc. -- Lessee shall, from time to time, do and perform such acts and shall execute, in addition to this Lease, a consent to the assignment hereof and shall acknowledge, deliver, file, register and record (and shall re-file, re-register, or re-record whenever required) any and all such reports, records, accounts, memoranda, Uniform Commercial Code financing statements, as contemplated by paragraph 30, filings under the Interstate Commerce Act and instruments required by law or reasonably requested by Lessor, or by the Lender hereinafter referred to, for the purpose of proper protection, to the satisfaction of counsel for Lessor, and for the Lender hereinafter referred to, of Lessor's title to the auto racks and for the purpose of carrying out the intention of this Lease in conformity with all federal and state regulatory agency requirements. Lessee shall pay all costs, charges and expenses incident to the filing, re-filing, registering, re-registering, recording and re-recording of this Lease and a consent to the assignment hereof and any such other action.

23. Notification. -- Any notice required or permitted to be given by either party hereto to the other or to the Lender shall be deemed to have been given when deposited in the United States mails, first class, with postage prepaid, addressed as follows: If to the Lessor: EMRR, Incorporated, 1970 Chain Bridge Road, Suite 610, McLean, Virginia 22101. If to the Lessee: 745 South LaSalle

Street, Chicago, Illinois 60605. If to the Lenders: Merchants National Bank, 17 South Meridian, Indianapolis Indiana, Attn: Mr. Stephen L. Plummer, and American Mutual Life Insurance Company, 418 Sixth Avenue, Des Moines, Iowa 50307, Attn: Mr. William R. Engel, or at such other changed address as any party shall give notice of to the other parties.

24. Law Governing. -- This Lease shall be governed and construed in accordance with the laws of the State of Maryland.

25. Counterparts. -- This Lease may be executed in any number of counterparts numbered consecutively in ascending numerical order, but only the counterpart that is labeled "Counterpart No. 1" shall be deemed to be the original Lease for purposes of perfection of a security interest therein and shall be the only counterpart which may be transferred and given to transfer the rights of Lessor hereunder.

26. Assignment by Lessor. -- Simultaneously, with the execution and delivery of this Lease, Merchants National Bank, Indianapolis, Indiana and American Mutual Life Insurance Company, Des Moines, Iowa (collectively called the "Lenders") are providing financing in connection with this transaction and Lessor will assign this Lease and all of its rights hereunder to the Lenders, or to one Lender as representative of both Lenders, as collateral security therefor. Lessor's right, title and interest in and to this Lease and to the auto racks is being transferred and assigned to the Lenders, or to one Lender as representative of both Lenders, and a security interest in the auto racks and/or in this Lease is being granted by Lessor to the Manufacturer or to one or both of the Lenders, as the case may be. The Lenders may further transfer and

assign the same, including their interests as secured parties, and any Assignee (which term shall include the Lenders) shall have all the rights, powers, privileges and remedies of Lessor hereunder. Any such assignments shall be specifically subject to Lessee's rights hereunder and no such assignment may be made which adversely affects Lessee's right to operate and use the auto racks, the subject of this Lease. Any such Assignee shall not be obligated to perform any of the obligations of Lessor hereunder. Lessor hereby instructs Lessee to pay the rentals and the additional rentals specified herein in Paragraph 5, or an amount equal to such rentals, together with any amounts to be paid under any of the other provisions of this Lease, including Paragraphs 7, 8, 12, 17, 19, 26 and 29 and all other sums due hereunder or pursuant hereto, directly to the Lenders, or to one Lender on behalf of both Lenders, or to such subsequent Assignee or otherwise, as the Lenders may direct, at the time specified herein. Such Assignee may, at its option, utilize or retain such payments in the satisfaction of any obligation of Lessor to Assignee; or in the satisfaction of any obligation of Lessor or Lessee hereunder; or as security for the performance by Lessor or Lessee of their respective obligations hereunder. Except as specifically provided in Section 12 hereof, the foregoing payments shall be made without interruption or abatement pursuant to the terms of this Lease notwithstanding any event whatsoever, including without limitation, the bankruptcy or insolvency of Lessor or any disaffirmance of its Agreement by any trustee or receiver until receipt of written notice from said Assignee that all obligations secured by said assignment have been satisfied.

27. Rights of Assignee. -- Lessee agrees that neither the payments to be made to such Assignee (which term includes the Lenders) nor the rights of such Assignee under such assignment shall be the subject of any setoff, counterclaim or defense with respect to any claim of Lessee against Lessor or otherwise, whether now existing or hereafter arising, that it will not assert any such set-off, counterclaim or defense in any proceeding brought under said assignment, and that it will not seek to recover any such payments previously made; provided that nothing herein contained shall affect any claims which Lessee may have against Lessor or the right of Lessee to enforce any such claims in any manner other than by attachment or recoupment of, or set-off, counterclaim or defense against, the aforementioned payments to be made to such Assignee. Lessee agrees to hold the auto racks and the possession thereof for and on behalf of said Assignee to the extent of said Assignee's rights under any assignment subject to and without impairment of Lessee's rights hereunder.

28. Amendments; Assignee's Consent. -- This Lease may not be changed orally, but only by agreement in writing between Lessor and Lessee, consented to by Assignee hereof, even though such change is specifically contemplated by the terms hereof. No modification or waiver of any provision of this Agreement nor consent to any departure by Lessee therefrom, including without limitation thereof any modification specifically contemplated by the terms hereof, shall be effective unless the same shall be in writing signed by Lessor and Assignee hereof, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given.

29. General Motors Corporation ("GM") has agreed in a letter dated December 10, 1976 addressed to Lessee to reimburse Lessee on a ten-year pro rata basis for any portion of the unamortized cost of the auto racks in the event that GM's failure to use the rail cars for the full ten-year period results in an inequity to Lessee. Lessee hereby assigns to Lessor all right, title and interest of Lessee in and to any such payments of reimbursement. Concurrently with execution of this Lease, Lessor is assigning its rights in and to such payments to the Lenders. Any such payments remitted to the Lenders shall be credited against the present value of the remaining installments of rent in the inverse order of installment dates as set forth in the schedule of termination values attached hereto as Schedule 1, and in the event such payment shall not be sufficient to pay the applicable termination value, the Lessee shall either (i) pay the balance of said termination value in full on the next succeeding rent installment date, whereupon this Lease Agreement shall terminate, or (ii) shall continue to pay the stated rent payments hereunder.

30. Miscellaneous. -- The captions in this Lease are for convenience only and shall not define or limit any provisions hereof. Lessee shall have no rights, title or interest in or to said auto racks except the right to use the same upon the terms and conditions herein contained. Lessor's title to the auto racks and its right to take possession thereof in compliance with the provisions of this Agreement shall not be affected by the provisions of the Federal Bankruptcy Act, as amended. No failure or delay on the part of Lessor in exercising any power or right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such

right or power preclude any other or further exercise of any such right or power. No notice to or demand on the Lessee shall entitle Lessee to any other or further notice or demand in similar or other circumstances. Time is of the essence of this Lease. If any term or provision of this Lease or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or application of such term or provision to persons or circumstances, other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and enforced to the fullest extent permitted by law.

31. Financing Statements. Lessee authorizes Lessor or any Assignee hereof to file financing statements or other instruments signed only by Lessor or such Assignee in all places where necessary to perfect a security interest in the auto racks in all jurisdictions where such authorization is permitted by the Uniform Commercial Code or under the Interstate Commerce Act and Lessee agrees to execute and deliver such financing statements or other instruments to Lessor or its Assignee for filing as may be required by Lessor or its Assignee with respect to any other jurisdictions.

32. Additional Agreements. Lessor and Lessee shall, but only with the prior written consent of Assignee, at any time, and from time to time at the request of Lessor, Lessee or Assignee, execute and deliver or perform, or cause to be executed and delivered or performed, all supplements and all such further and other instruments and assurances as may reasonably be appropriate in order more effectively to carry out the intents and purposes of this Lease and to establish, confirm, maintain and protect the rights and

remedies created or intended to be created in favor of Lessor and Lessee by this Lease.

33. Successors, Etc. -- This Lease shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns to the extent permitted hereunder.

34. Resolutions. -- Lessee shall furnish Lessor with whatever evidence may be required by the Lessor authorizing the execution and delivery of this Lease and such other documents as are to be executed and delivered by Lessee to Lessor, together with such other documents, including counsel's opinions, as specified in Exhibit B, attached hereto, all in a form and substance satisfactory to Lessor.

35. Authorization. -- Lessor covenants that upon execution of this Lease as provided below, this Lease shall constitute a contract binding upon the Lessor and that the obligation of Lessor hereunder shall be enforceable.

EMRR, INCORPORATED

~~(SEAL)~~

ATTEST:

Robert O. Skelton
Its and Secretary

By Daniel C. Morley
Its PRESIDENT

WITNESS:

W. H. Gibbons

WILLIAM M. GIBBONS, TRUSTEE,
CHICAGO ROCK ISLAND & PACIFIC
RAILROAD COMPANY

W. H. Gibbons

STATE OF ILLINOIS)
) SS:
COUNTY OF COOK)

On this 15th day of June before me personally
appeared William M. Gibbons, to me personally known, who, being
by me duly sworn, says that he is the Trustee in Bankruptcy of
Chicago, Rock Island & Pacific Railroad Company, and he acknow-
ledged that the execution of the foregoing instrument was his
free act and deed.

John H. Lewis
NOTARY PUBLIC

MY COMMISSION EXPIRES:

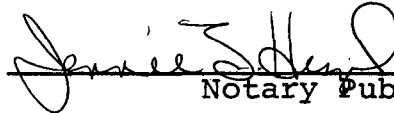
Oct. 26, 1977

STATE OF ILLINOIS)
)
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for the County and State aforesaid, DO HEREBY CERTIFY that David C. Morley, personally known to me to be President of EMRR, Incorporated and Robert A. Shelton, personally known to me to be Assistant Secretary of EMRR, Incorporated and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as President and Assistant Secretary of EMRR, Incorporated, a corporation organized and existing under and by virtue of the laws of Maryland they signed and delivered the said instrument (Lease) and caused the seal of EMRR, Incorporated, to be thereto affixed as their free and voluntary act, and as the free and voluntary act of EMRR, Incorporated.

GIVEN under my hand and notarial seal this 16th day of June, 1977.

(NOTARIAL SEAL)


Notary Public

My Commission Expires:

12-23-80

Exhibit A to Bill of Sale

Forty new PORTEC, Inc. enclosed tri-level auto racks bearing the serial numbers designated below. The numbers listed in the "Car Number" column are numbers of cars to which the Racks with the serial numbers directly opposite were attached.

<u>Car Number</u>	<u>Serial Number</u>
ETTX 820260	40613-5
ETTX 820261	40613-20
ETTX 820255	40613-18
ETTX 820263	40613-28
ETTX 820259	40613-15
ETTX 820265	40613-12
ETTX 820266	40613-7
ETTX 820267	40613-11
ETTX 820268	40613-13
ETTX 820269	40613-14
ETTX 820270	40613-6
ETTX 820271	40613-4
ETTX 820272	40613-19
ETTX 820273	40613-17
ETTX 820274	40613-3
ETTX 820275	40613-2
ETTX 820276	40613-16
ETTX 820277	40613-9
ETTX 820278	40613-8
ETTX 820279	40613-10
ETTX 820280	40613-29
ETTX 820281	40613-1
ETTX 820282	40613-30
ETTX 820283	40613-31
ETTX 820284	40613-32
ETTX 820285	40613-26
ETTX 820286	40613-33
ETTX 820287	40613-34
ETTX 820288	40613-27
ETTX 820289	40613-38
ETTX 820290	40613-22
ETTX 820291	40613-24
ETTX 820292	40613-35
ETTX 820293	40613-21
ETTX 820294	40613-36
ETTX 820295	40613-23
ETTX 820296	40613-40
ETTX 820297	40613-39
ETTX 820298	40613-37
ETTX 820299	40613-25

SCHEDULE OF TERMINATION VALUES

<u>Termination*</u> <u>Date</u>	<u>As a % of</u> <u>Equipment Cost</u> (\$28,444.00 per unit) ^{Dr}
90	107.89
180	108.70
270	106.78
360	105.13
450	103.44
540	101.52
630	99.10
720	96.61
810	94.07
900	91.45
990	88.76
1080	79.60
1170	76.78
1260	73.90
1350	70.95
1440	67.92
1530	64.84
1620	61.68
1710	58.46
1800	48.75
1890	45.38
1980	41.95
2070	38.44
2160	34.86
2250	31.20
2340	27.49
2430	23.70
2520	15.61
2610	11.84
2700	7.99
2790	4.04

*Expressed as a number of days after the Closing Date for each Rack.